IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

WP(C).No. 26607 of 2007(P)

OS.885/1987 of II ADDL.SUB COURT,THRISSUR
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PETITIONER:

T.A.ABRAHAM, AGED 65 YEARS,32/1762,
NETAJI ROAD, COCHIN-24.

BY ADV. SRI.GEORGE VARGHESE (MANACHIRACKEL)

RESPONDENT:

SIDCO MOHAN KERALA LTD.,
FIC,PERINGANOOR P.O.
TRICHUR REPRESENTED BY DIRECTOR IN CHARGE
SICO MOHAN KERALA LTD, KADAVANTHRA, COCHIN 20

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

W.P.(C) NO.26607 OF 2007-P

Dated this the 6th day of September, 2007.

JUDGMENT

This writ petition is preferred against the order of the 2nd Additional Sub Judge, Trichur in E.P.No.44/2002 in O.S.No.885/1987. At the outset, I may like to point out that this is a very old suit where the decree holder is knocking at the doors of the court for realisation of the amount. The contention raised is to the effect that the person who had filed the E.P had no authorisation to file the same. The court below considered that aspect in the light of the documents produced and found that he is competent to file the same. I do not propose to interfere with that finding. Therefore, it stands confirmed. But, it is seen from the order that the court below did not grant any opportunity to the writ petitioner to file objections to the draft sale proclamation. It is the settled principle of law that when immovable properties are sold in auction, the court has to strictly comply with the procedural formalities and an opportunity to be given to the judgment debtor to raise his objections on the draft sale proclamation. Just because draft sale papers were produced on 10.11.2006, it should not have rejected

the prayer for filing the objections.

2. Therefore, to that limited extent, I set aside the order of the court below and direct the court below to give an opportunity to the writ petitioner to file his objections on the draft sale papers and after hearing both sides, the court below shall proceed with the sale in accordance with law. If sale is ordered, the court below shall defer the same so as to enable the writ petitioner to file his objections within a period of one month from today and thereafter dispose of the same in accordance with law.

The writ petition is disposed of as above.

M.N. KRISHNAN, JUDGE.

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